

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Variance
V 12-1-01 Phoenix III Corporation/Harry Speyer, 5400 Pine Island Road/
Generally located on the east side of Pine Island Road 2,400 feet north
of Stirling Road.

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM:

V 12-1-01 Phoenix III Corporation/Harry Speyer, 5400 Pine Island Road (R-3)

REPORT IN BRIEF:

The petitioner has requested variance from the Land Development Code's conventional single family development standards for the R-3, Low Density Dwelling District for lot area, lot frontage, and side yard setbacks in order to allow development of 26 single family homes on the 9.41 acre subject site.

The density of the subject site permits the development of 28 single family homes, and the petitioner has submitted a preliminary site plan showing 26 units. This is due to the special conditions of the site, because it is narrow and there is no through access to SW 82 Avenue. Since there is no through access, the petitioner must provide a cul-de-sac which takes away from the land area that can be built upon. The access requirement and narrowness prevents the petitioner from achieving the allowed density when strictly applying the conventional single family residential standards. The requested reduction in the standards are the minimum needed to have reasonable use of the land. It is noted that the preliminary site plan shows lots with 35 foot rear yards, which exceeds the minimum requirement by 10 feet. The intent of the Code is to allow freedom in design to achieve the permitted use of the land, and this request illustrates this principle. Staff finds that the development will be in harmony with the surrounding area.

PREVIOUS ACTIONS: None

CONCURRENCES: At the February 27, 2002 Planning and Zoning Board meeting, Vice-Chair Bender made a motion seconded by Mr. Waitkus to approve (Motion carried 4-0, Ms. Moore was absent).

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Planning Report, Preliminary site plan, Justification letter, Land use map, Subject site map, Aerial

Application #: V 12-1-01
Exhibit "A"

Revisions:
Original Report Date: 3/29/2002

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

APPLICANT INFORMATION

Owner:

Name: Harry Speyer

Address: 6927 Silver Mill Drive

City: Tampa, FL 33635

Phone: (813)885-4768

Agent:

Name: Phoenix III Corporation
c/o C. William Laystrom, Jr.

Address: 1177 SE 3 Avenue

City: Fort Lauderdale, FL 33316

Phone: (954)762-3400

BACKGROUND INFORMATION

Date of Notification: March 6, 2002 **Number of Notifications:** 26

Application History: No deferrals have been requested.

Application Request: **FROM:**

requires a minimum lot area of 12,000 square feet, 100 foot minimum lot frontage, and 15 foot minimum side yards; **TO:** reduce the minimum lot area to 9,800 square feet, 70 foot minimum lot frontage, and 10 foot minimum side yards. This request has been made in order to allow development of 26 single family homes on the 9.41 acre subject site.

Address/Location: 5400 Pine Island Road/Generally located on the east side of Pine Island Road 2,400 feet north of Stirling Road.

Future Land Use Plan Designation: Residential (3 DU/AC)

Zoning: R-3, Low Density Dwelling District

Existing Use: Vacant

Proposed Use: 26 single family dwellings

Parcel Size: 9.41 acres (409,899.6 square feet)

Surrounding Uses:

North: Vacant
South: United Pentecostal Church,
University Acres Private School
East: Atrium Center's retention pond

Surrounding Land

Use Plan Designation:

Residential (3 DU/AC)
Community Facilities,
Residential (3 DU/AC)
Commercial

West: Single family residential

Residential (3 DU/AC)

Surrounding Zoning:

North: A-1, Agricultural District

South: CF, Community Facilities District

East: B-3, Planned Business Center District

West: R-1A and R-1B within Cooper City

ZONING HISTORY

Related Zoning History: No related zoning history.

Previous Request on same property: Town Council denied petition ZB 12-3-99 on February 16, 1999 requesting to rezone 10 gross acres of property from A-1, Agricultural District to RM-8, Medium Density Dwelling District, through the use of 30 residential “reserve units” as provided for by the Broward County Future Land Use Plan.

Town Council approved petition ZB 1-3-01 on April 18, 2001 which rezoned the subject site from A-1, Agricultural District to R-3, Low Density Dwelling District.

APPLICATION DETAILS

The petitioner has requested variance from the Land Development Code’s conventional single family development standards for the R-3, Low Density Dwelling District for lot area, lot frontage, and side yard setbacks in order to allow development of 26 single family homes on the 9.41 acre subject site.

Applicable Codes and Ordinances

Section 12-81A of the Land Development Code requires a minimum lot area of 12,000 square feet, 100 foot minimum lot frontage, 30 foot minimum front setback, 15 foot minimum side yards, and 25 foot rear setback in the R-3, Low Density Dwelling District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 10. This Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park-zoned lands on the southern half. Commercial development also exists along Griffin Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to, a regional library, multiple church uses varying scales, a girl scout campground facility, and a private

school.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102. Platting of the subject site is required.

Applicable Goals, Objectives and Policies: Policy 17-7 Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

The density of the subject site permits the development of 28 single family homes, and the petitioner has submitted a preliminary site plan showing 26 units. This is due to the special conditions of the site, because it is narrow and there is no through access to SW 82 Avenue. Since there is no through access, the petitioner must provide a cul-de-sac which takes away from the land area that can be built upon. The access requirement and narrowness prevents the petitioner from achieving the allowed density when strictly applying the conventional single family residential standards. The requested reduction in the standards are the minimum needed to have reasonable use of the land. It is noted that the preliminary site plan shows lots with 35 foot rear yards, which exceeds the minimum requirement by 10 feet. The intent of the Code is to allow freedom in design to achieve the permitted use of the land, and this request illustrates this principle. Staff finds that the development will be in harmony with the surrounding area.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

(b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

(c) Granting of the requested variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Recommendation: Based upon the above and finding of facts in the positive, staff

recommends **approval** of petition V 12-1-01.

Planning & Zoning Board Recommendation

At the February 27, 2002 Planning and Zoning Board meeting, Vice-Chair Bender made a motion seconded by Mr. Waitkus to approve (Motion carried 4-0, Ms. Moore was absent).

Exhibits

1. Preliminary site plan
2. Justification letter
3. Land use map
4. Subject site map
5. Aerial

Prepared by: _____

Reviewed by: _____

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* ALSO ADMITTED IN MICHIGAN
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** CERTIFIED CIRCUIT CIVIL AND FAMILY MEDIATOR

February 8, 2002

Mr. Christopher M. Gratz
Planner II
Development Services Department
Planning & Zoning Division
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

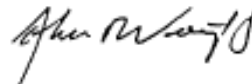
Re: Phoenix III Corporation
Variance Application No. V-12-101

Dear Chris:

Pursuant to our numerous conversations, please accept this letter as our request to modify our variance request with regard to the side yard setbacks. We would like to change the request, which was filed from a 7 ½ foot side yard to a 10 foot side yard. I've enclosed a revised Justification Statement as well.

Please contact me should you have any questions or if anything further is required.

Sincerely,



JOHN D. VOIGT
For the Firm

JDV:dla
Enclosure

REVISED JUSTIFICATION STATEMENT FOR VARIANCE REQUEST

The Petitioner requests variance from three of the eight conventional single family development standards found in Section 12-81A of the Town of Davie Code. Specifically the petitioner requests a variance of the minimum lot area from 12,000 square feet to 9,800 square feet, a variance of minimum lot frontage from 100 feet to 70 feet, and a variance of minimum side yard of 15 feet to 10 feet. No variance is requested or required for the 30 foot minimum front yard, 25 foot minimum rear yard, 35 foot maximum height, 1,000 square foot minimum dwelling unit floor area, and 0.40 maximum building coverage ratio.

The subject site contains approximately 10 gross acres that are vacant lands. The property is contiguous to and will have access to the east side of Pine Island Road, situated approximately halfway between Griffin Road and Stirling Road. To the north are lands designated R-3 and, beyond that, property that was recently rezoned by the Town to residential R-5. On the eastern side of the site is SW 82nd Avenue, and across that, lands zoned B-3 commercial and already developed in commercial uses. There will be no access to the project from S.W. 82nd Avenue, other than emergency fire access, if required by the town. To the south of the subject site is land designated R-3 on the eastern half, but property designated Community Facility (CF) on the western half. The CF property has been developed with a church and related facilities. On the western side of the site is Pine Island Road, which is a four land divided arterial that forms the municipal boundary for the Town.

In 1997, Pine Island Road was expanded between Griffin Road and Stirling Road, proximate to the amendment site. Completion of this 4-lane divided highway has enhanced access and roadway capacity in the area. The roadway now forms a direct link to I-595 from Stirling Road, which is south of the subject site, making it directly accessible and more urban in nature. Developments along the older portion of Pine Island Road north of the amendment site maintain densities of an average of 3.6 units per acre in Forest Ridge, to densities of 5, 6.3, 10 and 16 units per acre, underscoring the urban nature of this roadway.

Previously the petitioner was granted a rezoning of the property to the zoning district R-3. This zoning would allow for a total of 28 single dwelling units. These single family homes would range in size with a minimum of 2,000 square feet being anticipated.

A review of the Town of Davie Code indicates that any request for variance should include consideration of the criteria listed in Section 12-309 of the Land Development Code to determine if the request should be favorably reviewed. These criteria with respect to the subject requests are discussed below.

Criterion (1): There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the same district; and that said circumstances or conditions are such that the strict application of the provisions of Chapter 12 of the Code of the Town of Davie would deprive the applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self-created by any person having an interest in the property.

Policy 6-1 of the adopted comprehensive plan of the Town of Davie provides that moderate density should be located proximate to arterial roadways, available mass transit and other community facilities, and generally sited east of Pine Island Road. The subject site meets all of those criteria and is in fact considered low density. The applicant's architect, Jeff Evans, and the applicant's engineer, Joe Keith, have developed preliminary site plans, which result in fewer than the allowable 28 lots allowed for placement of dwelling units even assuming the variances are granted. In order for the petitioner to develop a feasible product that would provide quality single family homes, the petitioner requires the three variances sought in order to achieve a total of 26 dwelling units, which is less than the allowed under the R-3 zoning.

Physically the property is unusually long and narrow and requires an on-site drainage retention pond. Further, a circular cul-de-sac is required at the east end of the property where the property ends at a canal since the Applicant does not intend to have access to S.W. 82nd Avenue. This circular turn-around requirement further eliminates space from the overall site requiring that the lots be made slightly smaller than designated by the Code, and slightly more narrow. The proposed lots would have a width of 70 feet and a depth of 140 feet, for a total size of 9,800 square feet. The 140 foot lot depth provides for a front yard of 30 feet in depth and rear yard of approximately 35 feet in depth, where the code requires only 25. The applicant seeks to reduce the side yard requirements from 15 feet on each side to 10 feet on each side

again due to the long narrow shape of the property. In essence, the variance request for minimum lot frontage and side yards must be considered in tandem, since they constitute virtually the same request. The current Code requirements would make the home sites unaffordable and the project unfeasible.

As a result, these variance requests satisfy this criteria in that the configuration of the land is peculiar and that the strict application of the code would deprive the applicant of the reasonable use of the land for which the recent rezoning to R-3 was sought and granted. Finally, the hardship is not self-created, but was created many years ago when the property was subdivided in the 1950s and 1960s.

Criterion (2): The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

The variance requested is the minimum variance that will accomplish the reasonable use of the land in that numerous architectural and engineering plans have indicated that without these variances a quality residential product cannot be developed or marketed on this site. If the variance is granted, it is anticipated that quality homes on substantial home sites can be constructed that will be a credit to the community and will not be out of place with the surrounding properties and development. Without the granting of these minimum variances, it will be economically unfeasible to proceed on any residential development of the property that would be compatible with an R-3 zoning district and the surrounding properties.

As a result, the requested variances satisfy this criterion.

Criterion (3): That granting the variance will be in harmony with the general purpose and intent of Chapter 12 of the Code of the Town of Davie and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of the variances requested would result in single family residential dwelling units placed on lots from 70 foot frontage with a 30 foot depth of the front yard. The side yards would be a minimum of 10 feet on each side with a rear yard of 35 feet in depth rather than the 25 feet required by the Code. The dwelling unit would be in compliance with the 35 foot maximum

height requirement and would at least be double of the 1,000 square foot minimum dwelling unit floor area. Finally, the maximum building coverage would be less than the 0.40 ratio allowed by the Code and is anticipated to be no greater than 0.37. The lot area would be 9,800 square feet rather than the 12,000 feet contemplated by the Code. These dimensions would be in harmony with the general purpose and intent of the Code in that they would exceed virtually all of the approved minimums for a multifamily development as found in the Code under 1282(B), (C), (D), (E) and (F). The granting of the proposed variance as requested would not be injurious to the neighborhood or otherwise detrimental to the public welfare, but rather would allow for the development of a quality single family home project including a lake and open space in excess of any required by the Code. This project will also be compatible with the community facility property immediately to the south, with the R-3 zoned property immediately to the north, with the B-3 commercial developments to the east, and with Pine Island Road to the west.

As a result, this variance request satisfies this criterion.

As has been demonstrated, the variances requested are consistent with the adopted comprehensive plan and meet all of the criteria contained in the Land Development Code. As a result this Application for Variance merits favorable consideration.

